

Board of Health Minutes
Monday, September 10, 2018 5:30 PM
Meeting Room C, Town Hall
25 Green Street, Ipswich, MA

Call to Order: Susan C. Hubbard called the meeting to order at 5:35 PM.

Members attending: Susan C. Hubbard, Dr. Susan Boreri, and Margaret McDermott were in attendance.

Others in attendance: Director of Public Health; Colleen Fermon, Jennifer Brown, Administrative Assistant, Hugh L. Graham, P.E., Daniel Johnson, R.S., Charles Johnson, P.E., Brian Bilo, Justin and Meghan Monigle.

Citizens Queries: None.

Minutes: Susan Hubbard made a motion to approve the August 13, 2018 minutes. Margaret McDermott seconded the motion. The motion passed unanimously.

Hearings:

5:36 – Marshview Farm, LLC – 81 Fox Creek Road – Represented by C.G. Johnson Engineering, Inc. – Septic System Design Variance

Charles Johnson, P.E., presented, and a hearing was conducted to consider variances from Title 5 for sewage disposal system plan # 1374 designed by Charles Johnson, P.E., dated August 7, 2018 for the 3 bedroom dwelling located at 81 Fox Creek Road, Ipswich, Massachusetts.

The system failed a Title 5 inspection on August 11, 2016.

Mr. Johnson proposed a Perc Rite Drip Dispersal System for the upgraded system and requested the following variance:

- A reduction in the separation between the septic tank inverts and Estimated Seasonal High Groundwater (ESHGW). The inlet and outlet inverts are .25 and .05 inches, respectively, above Estimated Seasonal High Groundwater.

The Perc-Rite Drip Dispersal System is designed for sites with restrictive soil conditions. It is a pressure distributed subsurface wastewater drip dispersal system that replaces a conventional soil absorption system. The system is designed to distribute septic tank or secondary effluent and pressure discharge it at a depth of at least 6 inches below finished grade. The Local Upgrade waiver request is needed because of high groundwater.

Susan Hubbard noted that at the April 9, 2018 Board of Health meeting, the Board granted an extension for the upgrade of the system. The owner was ordered to have the system installed with the Certificate of Compliance *on or* before December 15, 2018. Will this deadline be met? Mr. Johnson confirmed the December 15, 2018 deadline would be met.

The Board considered the request. Dr. Boreri felt the dwelling should remain unoccupied until the issuance of the Certificate of Compliance. Mr. Johnson attested that the dwelling was currently unoccupied and would remain unoccupied until the system is installed. Susan Hubbard made a motion to approve the plan and grant the variance as requested with the following conditions:

- A 2 year Operations and Maintenance contract must be submitted to the Public Health Office for the Perc Rite Drip Dispersal System prior to issuance of Disposal System Construction Permit.
- A Notice of Alternative Disposal for the Perc Rite Drip Dispersal System must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- Conservation Commission Approval must be obtained prior to the issuance of the Disposal System Construction Permit.
- A clean water test must be done with Perc Rite representative and Director of Public Health to verify system design flush and dose rates; and to confirm the absence of leaks.
- The Installer must be trained in the installation of Perc Rite and provide a copy of the Perc Rite certification to the Public Health Office prior to issuance of Disposal System Construction Permit.
- An Ipswich licensed installer must obtain a trench permit prior to the issuance of the disposal system construction permit.
- The system must be installed with the Certificate of Compliance issued by December 15, 2018.

Margaret McDermott seconded the motion. The motion passed unanimously.

5:39 – Robert Hicks – 43 Bay View Road – Septic System Upgrade Extension

Daniel Johnson, R.S., presented, and a hearing was held to consider an extension for the installation of the septic system to serve 43 Bay View Road, Ipswich.

Coleen Fermon provided the Board with some background information. The septic system serving 43 Bayview Road failed a Title 5 Inspection on October 31, 2016. In accordance with 310 CMR 15.000, Title 5, the owner was ordered to upgrade the septic system within 2 years from the date of inspection; by October 31, 2018. On March 13, 2017, the Board of Health approved sewage disposal system plan # J-2486 designed by Daniel Johnson, R.S., dated December 12, 2016 and last revised March 8, 2017 for the 2 bedroom dwelling located at 43 Bayview Road, Ipswich, Massachusetts. Approval was granted with the condition that the system was installed with the Certificate of Compliance issued by October 31, 2018. On August 28, 2018, the owner requested a hearing for an extension for the installation of the upgraded septic system.

At the meeting, Daniel Johnson, R.S., requested a variance on the owner's behalf, for an extension for the installation of the upgraded septic system until July 31, 2019. Mr. Johnson explained that the property is on the market to be sold and the owner would like the installation of the upgraded septic system to be handled by the buyer.

Susan Hubbard questioned how many people occupy the dwelling. Mr. Johnson was unaware of the occupancy of the dwelling but said it was occupied.

Susan Hubbard made a motion to deny the request for an extension based on the October 31, 2016 failed Title 5 inspection. The owner was ordered to have the system installed with the Certificate of Compliance issued on or before October 31, 2018. Dr. Boreri seconded the motion. The motion passed unanimously.

5:43 - James Germon and Victoria Brock-Germon – 9 Hood Farm Road – Noncompliance with Septic System Upgrade timeframe/violation of Title 5

The owner was not present at the meeting. Colleen Fermon presented. On September 10, 2018 Ms. Fermon was informed by the owner that a Title 5 inspection was conducted on September 1, 2018 by D.F. Clark, Inc. Ms. Fermon contacted D.F. Clark, Inc. to check if an inspection was done. D.F. Clark, Inc.

confirmed that an inspection was done on September 1, 2018 and the report would be submitted to the Public Health Office within the required 30 days.

5:44 – Robert Lang, Jr. – 4 Merganser Road – Noncompliance with Septic System Upgrade timeframe/violation of Title 5

On September 10, 2018 Ms. Fermon spoke with Attorney Kaitlyn Lynch, who is handling the property for the owner who is in an assisted living facility. Since she was just notified of the meeting today, she requested to appear at the October 1, 2018 meeting to allow herself time to prepare for the hearing.

It was the decision of the Board to postpone the hearing until the October 1, 2018 meeting.

5:45 - Cheryl Gillespie and Benjamin Gorniewicz – 104 Little Neck Road – represented by H.L. Graham Associates, Inc. – Septic System Design Variance

Hugh L. Graham, P.E., presented and a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health regulations for a sewage disposal system plan designed by Gerard McDonald, P.E., plan 07-719, dated August 8, 2018 and revised on September 6, 2018 for the 3 bedroom dwelling located at 104 Little Neck Road, Ipswich, Massachusetts.

Susan Hubbard asked if the abutters were notified. Mr. Graham provided certified green cards as proof of notification.

Mr. Graham explained that the property is for sale and there is a potential buyer, Brian Bilo. Mr. Graham explained that it is Mr. Bilo's intention to purchase the property and to raze and rebuild a three-bedroom dwelling in conjunction with the installation of the upgraded septic system. The current owner had a subsurface sewage system design approved on November 5, 2013 but the disposal system construction permit (DSCP) and associated soil test results expired on November 5, 2017 before the system was installed.

Mr. Graham proposed the use of a Waterloo Biofilter and Perc-Rite Drip Dispersal system for the septic system upgrade and requested the following variances:

- A reduction in the setback from the leaching area to the property line. A 3 foot setback is provided.
- A reduction in the setback from the septic tank and Waterloo Biofilter to the cellar wall. A 4 foot setback is provided.
- A reduction in the setback from the septic tank to the drywell. A 3 foot setback is provided.
- A reduction in the 12 inch separation between the septic tank inlet and outlet inverts and estimated seasonal high groundwater (ESHGW). Both inverts will be below estimated seasonal high groundwater (ESHGW).
- A reduction of design flow rate from 150 gallons/bedroom/day to 110 gallons/bedroom/day.
- To allow the entire septic system to be within the 150 foot buffer zone of the ACEC. The closest component, the septic tank, is 78 feet and the leach field is 130 feet from the ACEC.
- To allow the use of NVGD 1929 vertical datum in lieu of NAVD 1988 for coastal properties.

Susan Hubbard asked Ms. Fermon for her thoughts. Ms. Fermon said the variance requests were similar to the requests granted for the 2 previous septic system designs for this property. Ms. Fermon recommended approving the plan and granting the variances as requested.

Susan Hubbard made a motion to approve the plan and grant the variances as requested with the following conditions:

- Conservation Commission approval must be obtained prior to issuance of the Disposal System Construction Permit.
- The property lines must be surveyed and staked prior to the issuance of the Disposal System Construction Permit where the retaining wall is within 5 feet of the property line.
- A 2 year Operations & Maintenance contract for the Waterloo Biofilter and Perc-Rite Drip Dispersal systems must be submitted to the Public Health Office prior to issuance of Disposal System Construction Permit.
- A Notice of Alternative Disposal for the Waterloo Biofilter and Perc-Rite Drip Dispersal systems must be at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Office prior to the issuance of the Disposal System Construction Permit. Samples of Notice of Alternative Disposal can be found on the Massachusetts Department of Environmental Protection's website <http://www.mass.gov/dep>.
- The Installer must be trained in the installation of Perc Rite and provide a copy of the Perc Rite certification to the Public Health Office prior to issuance of Disposal System Construction Permit.
- A clean water test must be done with Perc Rite representative and Director of Public Health to verify system design flush and dose rates; and to confirm the absence of leaks.
- An Ipswich licensed installer must come to the Public Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee. The installer will receive the disposal system construction permit, the trench permit and a signed copy of the approved plan.
- The system must be installed with the Certificate of Compliance issued by June 30, 2019.
- The dwelling cannot be occupied until the Certificate of Compliance is issued.

Dr. Boreri seconded the motion. The motion passed unanimously.

6:00 - Report of the Health Agent:

56 Country Club Way: The Ipswich Housing Inspector appeared in Housing Court with a representative of the Attorney General's Office on June 8, 2018 to discuss the condition of the property and the owner's failure to make corrections. It was the decision of the Housing Court that a receiver would be appointed on July 25, 2018 if permits were not pulled and substantial work is completed.

On September 7, 2018 a re-inspection was conducted and all the repairs have been completed.

59 Topsfield Road: At the July 16, 2018 meeting, the Board directed Colleen Fermon to have an inspection done since there were apparent violations of 105 CMR 410.000. A housing inspection was conducted on July 31, 2018, violations were found and an order for correction was issued on July 31, 2018. The owner was ordered to bring the dwelling into compliance with the State Sanitary Code 105 CMR 410.000 within 30 days.

On August 6, 2018 the owner requested a hearing before the Board of Health to discuss the order to correct issued to her on July 31, 2018. At the August 13, 2018 meeting the Board discussed the request for an extension. It was the decision of the Board of Health to modify the order and grant an additional 30 days; until September 12, 2018 to obtain compliance with 105 CMR 410.000. The owner was informed that failure to correct all violations by September 13, 2018 would result in a criminal complaint being filed against her in court for failure to comply with a Board of Health order.

On September 6, 2018, the owner requested a second hearing to ask for an additional extension. Ms. Fermon explained the Board's Housing Enforcement Policy and that it only permits one hearing with the

Board of Health but she would ask the Board. A re-inspection of the property has been scheduled for September 15, 2018.

Dr. Boreri felt the Board should make an exception to their policy and allow the owner to appear before the Board at their October 1, 2018 meeting so the owner is aware of the severity of the situation. Margaret Mc Dermott agreed.

Susan Hubbard was not in favor of going against the Board's policy and allowing a second hearing.

It was the decision of the Board to have the owner of 59 Topsfield Road appear before the Board on October 1, 2018.

West Nile Virus: As of September 7, 2018 there have been 10 positive cases of West Nile Virus found in humans in Massachusetts. Topsfield and Wenham are the only towns in Essex County that have had positive West Nile Virus samples.

Tobacco: The senate passed youth tobacco prevention legislation. There are differences between the house and senate bills that need to be worked out. This grant will provide the Public Health Office with the resources and funding to train and educate retailers about tobacco use and the ability to do compliance checks. Previously, at the July 16, 2018 Board of Health meeting, the Board discussed reviewing the current Ipswich Sale and Possession of Tobacco Products and Minors Regulation and the Ipswich Environmental Tobacco Regulation in the future. The Board was interested in modifying the Ipswich Tobacco Regulations to address vaping but they wanted to see if the tobacco grant was approved and Ipswich becomes part of a regional tobacco collaborative.

At the August 13, 2018 Board of Health meeting, Public Health Agent Colleen Fermon reported on the Omni-bus Bill that passed at the state level, with \$125,000 approved to be divided up among sixteen communities that will form a regional collaborative.

The question for the Board was how they would like to go about revising their regulations to raise the Minimum Legal Sales Age MLSA to 21 and other changes. Options were discussed, the North shore/Cape Ann TAPP Program director could come to a meeting and go over the highlights with the Board and speak to the changes.

It was agreed that Colleen Fermon and Dr. Boreri would meet, review the changes and provide more information at the September meeting.

Ms. Fermon informed the Board that the Tobacco Collaborative was meeting on September 11, 2018 to discuss issues such as such as raising the purchasing age to 21, vaping, and prohibiting tobacco sales in pharmacies. She would update the Board in October.

Recombinant DNA (RDNA): Recombinant DNA regulations were amended in 2016. Previously, at the August 13, 2018 Board of Health meeting, Ms. Fermon reported that the Town Manager requested the Board of Health look at their Recombinant DNA regulations and streamline the registration process. Dr. Boreri noted that there were new guidelines at the Federal level. Susan Hubbard suggested asking Rebecca Ryan Caruso, the consultant for Ipswich, what she thought about the changes and to provide her recommendation.

Colleen reported that the consultant offered to do a video conference at the October 1, 2018 Board of Health meeting to review the Ipswich Recombinant DNA regulation and current National Institution of Health (NIH) regulations.

It was the decision of the Board to see if the consultant will provide the pros and cons of registration for exempt and biosafety level one work.

Next Board Meetings: The next meetings of the Board of Health were scheduled for October 1, 2018, November 19, 2018 and December 10, 2018 at 5:30 PM.

Adjourn: Susan Hubbard made the motion to adjourn at 6:30 PM. Susan Boreri seconded the motion. The motion to adjourn passed unanimously.

Documents used at the September 10, 2018 Board of Health meeting:

- August 13, 2018 Board of Health Minutes.
- Septic System Design Plan for 43 Bay View Road.
- August 28, 2018 email From Robert Hicks regarding 43 Bay View Road.
- Title 5 Inspection Report dated October 31, 2016 for 43 Bay View Road.
- Septic System Design Plan for 81 Fox Creek Road.
- Septic System Design Plan for 104 Little Neck Road
- August 24, 2018 email from Jim Germon regarding 9 Hood Farm Road.
- Letter Dated July 16, 2018 from Collen Fermon regarding 9 Hood Farm Road.
- Colleen Fermon emails dated July 13, 2018 and July 16, 2018 and May 7, 2018 letter regarding 9 Hood Farm Road.
- July 16, 2018 email From Brian Farmer regarding 9 Hood Farm Road.
- June 16, 2016 Title 5 Inspection Report for 4 Merganser Road.
- Septic System Design Plan for 4 Merganser Road.
- October 25, 2016 Board of Health Variance Letter regarding 4 Merganser Road.

Susan C. Hubbard, Chairperson

Dr. Susan Boreri, Board Member

Margaret McDermott, Board Member